

**COUNTY OF HAWAI'I PLANNING DEPARTMENT**  
**RECOMMENDATION**

**AT&T MOBILITY**

**USE PERMIT APPLICATION (USE 19-000082)**

---

Upon review of the request against the guidelines for approving a Use Permit, the Planning Director recommends that **a Use Permit to allow the construction of a non-manned telecommunication facility consisting of a 105-foot tall monopine with related equipment within a 1,054-square foot portion of a 20-acre property, be approved by the Planning Commission.** The Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This approval is based on the following findings:

The applicant is requesting a Use Permit to construct a new, non-manned telecommunication facility, consisting of a 100-foot tall self-supporting 'monopine' tower (105-foot tall with branches), and antenna array for AT&T consisting of three (3) sectors with four (4) antennas per sector for a total of twelve (12) antennas, thirty-six (36) remote radio heads, six (6) surge suppressors, and one (1) global positioning system (GPS) antenna. The tower will be painted pine green and designed to blend with the surrounding character or the rural subdivision. Green privacy slats in the chain link fence surrounding the ground equipment is proposed to mitigate visual impacts. No exterior lighting is proposed for the site. In addition to the tower and antennas, the 1,054-square foot (34' x 31') leased area would be used for accessory ground facilities located within an enclosed pre-fabricated 8' x 16' walk-in cabinet shelter. The leased area will be enclosed with a 6-foot high chain-link fence with landscaped buffer, green privacy slates, and a 10-foot wide locked access gate. The proposed facility will be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis, typically once a month within normal working hours. The applicant will comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules. Additionally, the facility will not interfere with the County's public safety radio system.

The objective of this project is to provide needed coverage and capacity for the residents and visitors of the Hawaiian Paradise Park area. The facility would fill a gap for emergency responders and provide a needed site in the FirstNet program, which is the Country's first nationwide communications platform dedicated to public safety. According to the applicant, FirstNet gives first responders a dedicated highly secure, interoperable network supporting voice, data, text, and video communications.

The Zoning Code requires a Use Permit for telecommunication antennas and towers in the County's Open zoning district. In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, requires that such action conform to the following guidelines:

- A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;
- B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed request meets the guidelines for approval of a Use Permit, for the reasons outlined below:

**The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan.** The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses, as well as consistency with the goals and policies of the General Plan.

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban

and non-urban form for areas within the County. The General Plan designation for this property is Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The request is consistent with the Land Use, Economic, and Public Utilities elements of the General Plan.

The telephone is an essential means of voice communication for the majority of residents in Hawai'i County. However, over the last decade, the County has seen acceleration in the development of telecommunication technology and a transformation of the telecommunications industry. In addition to traditional phone communication, the telecommunications industry now includes technologies such as wireless cellular and digital mobile phones, and the internet. During the last decade, wireless telecommunications has experienced a dramatic decrease in cost and a phenomenal increase in availability. Changes in technology and competition in the industry have made wireless communication more affordable to the general public.

Advances in telecommunications are not without cost or concerns. One such concern is the construction and location of telecommunication towers. Telecommunication towers are the physical structures to which antennas are attached to facilitate wireless communication. Because of the need for a clear line-of-site, telecommunication towers are usually located in areas with minimum obstructions between the tower and its area of service. Line-of-site refers to the imaginary line between a mobile phone antenna and a telecommunication tower. If there are impediments between the mobile phone antenna and the telecommunication tower, there may be signal degradation or signal loss. For example, the loss of line-of-sight occurs when a person uses a mobile phone while driving through a tunnel. Most often, communication is lost or unclear. The line-of-sight requirement often necessitates the conspicuous location of many telecommunication towers. Consequently, the

telecommunications tower is usually much taller than the surrounding structures or vegetation and may negatively impact the scenic nature of a given area.

A standard in the Public Utilities element of the General Plan states that in the development and placement of telephone facilities, such as lines, telecommunications and cellular towers, poles, and substations, the design of the facilities shall consider the existing environment, and scenic view and vistas shall be considered and preserved where possible. The General Plan identifies views of Mauna Kea and Mauna Loa from various Puna subdivisions as an example of natural beauty in the Puna district. The surrounding properties within the subdivision are heavily vegetated with medium to tall non-native trees which blocks views of these mountains. Additionally, the proposed telecommunication tower will be painted to blend in with the surrounding landscape which will lessen any adverse visual impacts on surrounding properties.

The Puna Community Development Plan (CDP) was adopted by the Hawai'i County Council on September 10, 2008. The request is consistent with Action 3.4.3.(e) under the Public Safety and Sanitation Services section in the plan, which states, "Encourage enhancement of cell phone service to expand coverage to more remote areas."

Both the General Plan and Puna Community Development Plan discuss the importance of protecting native species in order to maintain an ecological balance for the well-being of the island. In their memo dated January 6, 2020, the US Fish and Wildlife Service (USFWS) recommended several measures to avoid or minimize project impacts to threatened, listed and endangered species that may roost, nest or flyover the area. The Planning Director agrees these measures should be implemented. Thus, to avoid possible impacts on these species that are protected under the Endangered Species Act, which is administered by the USFWS, the applicant will be required to implement mitigation measures as conditions of this permit. Based on the above, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County of Hawai'i General Plan.

**The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character**

**or to surrounding properties.** The proposed facility will be located on a 1,054-square foot portion in the southwest corner of the 20-acre property. The property includes the HPP Association office building, a meeting hall/community center building, and accessory buildings. Properties located immediately to the north, east and west of the subject property are zoned A-20a. Surrounding properties within the subdivision are zoned A-1a and are developed with single-family dwellings or vacant. The closest dwelling is located about 235 feet southwest of the lease area and the proposed facility is about 208 feet from the meeting hall/community center building. Thus, it is unlikely any noise from the ground equipment would adversely affect neighbors. To reduce visual impacts on surrounding properties, the tower will be built as a 'monopine' to look like a pine tree, ground equipment will be surrounded by a 6-foot high chain-link fence with green privacy slates and the proposed telecommunication tower will be painted to blend in with the surrounding landscape. Additionally, the 105-foot tall (with branches) monopine tower will be set back 100 feet from 17<sup>th</sup> Avenue. With implementation of these measures, it is unlikely that there will be a significant adverse impact to the community's character or to surrounding properties.

It is anticipated that the approval of the telecommunication tower will be beneficial to the community as it will provide increased cell phone coverage in the area and will be a significant resource for emergency services. Therefore, based on the above, the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties.

**The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure.** Only electrical and telephone services are required for the proposed use and those utilities will be supplied via overhead lines into the lease area. Access to the subject property from 17<sup>th</sup> Avenue is sufficient since this is a non-manned facility that will generate very little traffic. Water and wastewater disposal are not required for the proposed use and fire and police services are available from stations in Pāhoa and Kea'au. Finally, the applicant will be required to

meet all applicable agency requirements, including the Federal Communications Commission and the Federal Aviation Administration.

**In addition to the criteria for granting a Use Permit, the request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area.** The subject property is located over about 2 miles to the nearest shoreline and is not located in the Special Management Area, and therefore will not be impacted by coastal hazards and beach erosion. There are no identified coastal recreational resources, coastal scenic and open space resources, coastal ecosystems, and beach or marine resources in the area. Thus, the proposed request will not adversely impact coastal resources. In a letter dated September 4, 2019, the Department of Land and Natural Resources-State Historic Preservation Division (SHPD) determined that no historic properties will be affected by the proposed use. Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property and no gathering or other traditional practices have been documented.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above, it is recommended that the request to construct a non-manned telecommunication facility consisting of 105-foot tall monopine with related equipment be approved by the Planning Commission. Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.

2. Construction and operation of the telecommunication facility shall be conducted in a manner that is substantially representative of plans and details as contained within the Use Permit application dated November 5, 2019 and representations made to the Windward Planning Commission.
3. Construction of the telecommunication facility shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-71(c)(3), 25-2-72, 25-2-74 and 25-4-12, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify proposed structures, fire protection measures, access easements and any fencing associated with the use. The antenna plans shall be stamped by a licensed structural engineer.
4. Prior to commencement of operation of the facility, the applicant shall secure and finalize any building permits for the proposed use required by the Department of Public Works Building Division.
5. Co-location of antennas upon the existing tower and the addition of related support and ground equipment is allowed and encouraged within the parameters of the tower height and ground lease area as approved by the Planning Commission without amendment of this permit or further Plan Approval. Co-location beyond the parameters approved by this permit but that results in less than a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, is allowed without amendment of this permit, provided Plan Approval has been issued by the Planning Director for the co-location. Co-location that results in a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, requires an amendment of this permit.
6. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be disturbed, trimmed or removed during bat birthing and pup rearing season of June 1st to September 15th without first conducting surveys for

- bat nests and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.
7. To protect any seabirds (Hawaiian petrels, Newell's shearwaters and band-rumped storm petrel) in the vicinity of the property, any lighting shall be fully shielded so that the bulb can only be seen from below bulb height. The lights shall be turned off when human activity is not occurring in the lighted area.
  8. To prevent the spread of Rapid 'Ōhi'a Death, a survey of the proposed site shall be conducted two weeks prior to any tree cutting to determine if there are any infected 'ōhi'a trees. If infected 'ōhi'a are suspected at the site, the applicant shall contact the appropriate agencies at UH-Hilo and USDA for further guidance. If 'ōhi'a trees will be cut during construction, the applicant shall follow procedures as determined by US Fish and Wildlife Service.
  9. To prevent the spread of harmful invasive species, the applicant shall follow biosecurity protocols as determined by US Fish and Wildlife Service.
  10. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
  11. The applicant shall comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development, including the Federal Aviation Administration and Federal Communications Commission. All exterior lighting shall be shielded.
  12. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicant shall immediately provide written notification to the



Planning Director of the termination of the telecommunication tower and related improvements and the removal of all structures.

13. An initial extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
  - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.